IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 126 OF 2006

IN

SUMMARY SUIT NO. 3195 OF 2004

Advance Metal Powder ..... Plaintiff

Versus

ISIBARS Limited ..... Defendant

Ms. U.K. Shah with K.D. Shah for Plaintiff.

Mr. Simil Purohit i/by Udwadia & Udeshi for the Defendant.

CORAM : S.J. VAZIFDAR, J.

DATE : 16TH NOVEMBER 2006

P.C.

1) I do not find sufficient reasons for setting aside the exparte decree.

2) Prima facie, even on merits, the defendants do not have a case. The goods were supplied between 29th June 2002 to 16th August 2003. There was no reply to the Advocate's notice on demand dated 14th January 2004. Letters are now produced which alleged that the

goods were defective. There is no acknowledgment of the letters having been delivered. It is curious that the Defendant kept accepting the goods for one year despite all the deliveries containing defective goods. There is no explanation for the same.

3) Notice of Motion is dimissed with costs of Rs.2500/- payable within four weeks from today.